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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,  
Plaintiff,

v.

FILIBERTO HERNANDEZ-PACHECO,  
Defendant.

MEMORANDUM DECISION AND  
ORDER DENYING DEFENDANT'S  
MOTION TO DISMISS AND MOTION  
FOR EXTENSION OF TIME TO FILE  
REPLY

Case No. 2:18-CR-535 TS

District Judge Ted Stewart

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This matter is before the Court on Defendant's Motion to Dismiss and Motion for Extension of Time to File a reply. For the reasons discussed below, the Court will deny both Motions.

Defendant has failed to demonstrate good cause and excusable neglect to file an out-of-time reply brief.<sup>1</sup> Therefore, Defendant's Motion for Extension of Time must be denied. However, the Court has reviewed the proposed reply that was attached to the Motion for Extension of Time and concludes that nothing contained therein alters the Court's decision on the Motion to Dismiss. In light of *United States v. Contreras-Cabrera*<sup>2</sup> and *Soriano-Mendoza v. Barr*,<sup>3</sup> Defendant's Motion to Dismiss must be denied.

It is therefore

ORDERED that Defendant's Motion to Dismiss and Motion for Extension of Time (Docket Nos. 16 and 23) are DENIED. The time from the filing of the Motion to Dismiss to this

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<sup>1</sup> Fed. R. Crim. P. 45(b)(1)(B)

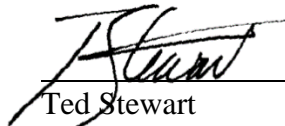
<sup>2</sup> ---F. App'x---, 2019 WL 1422627 (10th Cir. Mar. 29, 2019).

<sup>3</sup> ---F. App'x---, 2019 WL 1531499 (10th Cir. Apr. 9, 2019)

Order is excluded from computation under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(1)(D), (H). This matter is scheduled for a two-day trial to begin May 13, 2019.

DATED this 22nd day of April, 2019.

BY THE COURT:

  
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Ted Stewart  
United States District Judge